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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,346	12/08/2003	George Roussos	014442-000002a	1345
24239 7590 08/31/2007 MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709			EXAMINER NAKARANI, DHIRAJLAL S	
			ART UNIT 1773	PAPER NUMBER
			MAIL DATE 08/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/707,346		ROUSSOS, GEORGE	
	<b>Examiner</b>		<b>Art Unit</b>	
	D. S. Nakarani		1773	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25,27 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18 and 23 is/are allowed.
- 6) ☒ Claim(s) 1-17,19-22,24,25,27 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                      |                                                                   |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                          | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-17, 19-22, 24, 25, 27 and 28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification as filed fail to provide support for the limitation "when the film has a thickness of about 67.5 to 68 microns, the film has an impact resistance of at least 450 grams, measured in accordance with ASTM D1709, but with the film chilled so that exhibits a measured surface temperature of the film is 0° C". The "impact resistance of at least 450 grams" is an open-ended limitation. The originally filed specification does not provide support for the film having the impact resistance higher than 450 grams. The limitation "impact resistance of at least 450 grams reads on the impact resistance 450 grams or higher than 450 grams. The originally filed specification only provides support for the film having impact resistance of 450 grams. Therefore claimed open-ended impact resistance of at least 450 grams is a new matter.
3. Claims 1-11, 13, 15, 16, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Schirmer (U. S. 4,605,460) for the reasons of record set forth in

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paragraph 2 of the Office Action mailed January 5, 2007 (Paper Number 20061230). In addition, since Schirmer's multilayer film having outer, intermediate and barrier layers of the same polymers, respectively, as in claimed multilayer film of the present invention, the claimed impact resistance deemed to be an inherent property unless shown otherwise.

4. Claims 1-17, 19-22, 24, 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schirmer (U. S. Patent 4,605,460) in view of Yoshii et al (U. S. Patent 6,146,726), Bekele (U. S. Patent 4,909,726) and Lind et al (U. S. Patent 6,074,715) for the reasons of record set forth in paragraph 3 of the Office Action mailed January 5, 2007 (Paper Number 20061230). In addition, since Schirmer's multilayer film having outer, intermediate and barrier layers of the same polymers, respectively, as in claimed multilayer film of the present invention, the claimed impact resistance deemed to be an inherent property unless shown otherwise.

5. Claims 18 and 23 stand allowable.

6. Applicant's arguments filed July 3, 2007 have been fully considered but they are not persuasive. In reference to rejection of claims 1-11, 13, 15, 16, 24 and 25 under 35 U.S.C. 102(b) as being anticipated by Schirmer (U. S. 4,605,460) and rejection of claims 1-17, 19-22, 24, 25, 27 and 28 under 35 U.S.C. 103(a) as being unpatentable over Schirmer (U. S. Patent 4,605,460) in view of Yoshii et al (U. S. Patent 6,146,726),

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Bekele (U. S. Patent 4,909,726) and Lind et al (U. S. Patent 6,074,715), applicant mainly argues that the impact strength of the Schirmer films can not be as high as 450 gms according to the method at 0° C because Schirmer discloses a relatively brittle film before the film is laminated to a heat shrinkable film. Further, applicant states that films of Yoshii et al and Lind et al are heat shrinkable films requiring properties are not desired or required for chub packaging. Therefore, a person skilled in the art would not combine with any other documents like Bekele.

These arguments are unpersuasive because there is no factual evidence provided showing that Schirmer's films before the film is laminated to a heat shrinkable film is a brittle film as alleged.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D. S. Nakarani whose telephone number is (571) 272-1512. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571) 272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. S. Nakarani/  
**D. S. Nakarani**  
**Primary Examiner**  
**Art Unit 1773**

DSN  
August 22, 2007.